THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.5974 OF 1996

18.4.2006

Between:

T.Venkatarayappa, S/o.T.Subbanna

And others

… Petitioners

AND

The Joint Collector, Chittoor District, Chittoor

And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.5974 OF 1996

ORDER:

The land admeasuring Acs.7.99 in survey No.94/B1 and Acs.9.97 in survey No.94/B2 situated at Nayinicheruvupalle village of Malakalacheruvu Mandal in Chittoor District was originally assigned to M.Mareppa, a person belonging to depressed class. After death of Mareppa, his four sons were enjoying the land. The petitioners herein or their predecessors purchased the land from three sons of Mareppa under registered sale deed dated 19.4.1962 and they were statedly in possession of the land. The respondents 3 to 5, who are the sons of M.Mareppa, filed an application before the Sub Collector, Madanapalle seeking restoration of possession of the assigned land. By an order dated 18.2.1994, the Sub Collector, Madanapalle dismissed the said application on the ground that the petitioners herein belong to Boya community, which is a depressed class. Aggrieved by the same, the respondents 3 to 5 herein preferred appeal/ revision presumably under Section 4(b) of A.P. Assigned Lands (Prohibition of Transfers) Act, 1977. The same was allowed by the first respondent by impugned order dated 2.9.1995 directing the restoration of the lands to them. Aggrieved by the same, the present writ petition is filed.

The respondents have not filed any counter affidavit. After perusing the orders of the original authority and appellate authority and hearing the learned Counsel for the petitioners, learned Counsel for respondents 3 to 5 was absent (though he filed vakalat), it becomes clear that the Joint Collector, Chittoor allowed the appeal only on the ground that the petitioners do not belong to depressed classes and that the land reserved to be assigned to depressed classes cannot be assigned to others.

It is now well settled that by reason of Section 3(5) of the Act as well as the decisions of this Court that when the assigned land is transferred by way of sale/gift/mortgage, the same is void. However, as per Section 3(5) of the Act, the transfer of assigned land in favour of a landless poor person in good faith and for valuable consideration stands exempted from the rigor of Section 3(1) of the Act, which renders all transfers void. Therefore, when an application is filed by original assignee or legal heirs of such assignee for restoration of assigned lands, which were transferred earlier, appropriate authority has to address the only question whether transferee is a landless poor person, who purchased the land in good faith for valuable consideration. The other aspects are irrelevant. In that view of the matter, the order of the appellate authority suffers from misdirection in law. Therefore, the said order is liable to set aside.

Accordingly, the writ petition is allowed. The impugned order is set aside. The matter is remitted to the Joint Collector, Chittoor to consider the appeal of the respondents 3 to 5 in the light of the provisions under Section 3(5) of the Act and observations made herein above. Be it noted, the caste, community etc., are irrelevant for the purpose of enforcement of the provisions of the Act. There shall be no order as to costs.

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(**V.V.S.RAO, J**)

April 18, 2006

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